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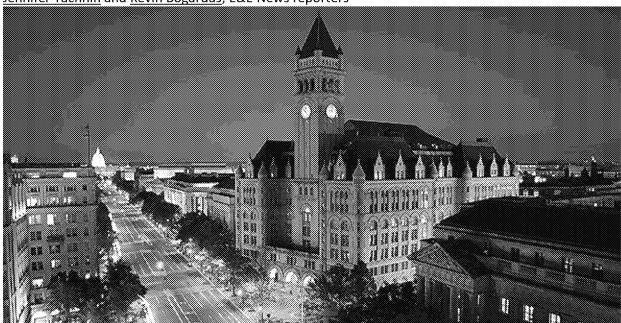
### Democrats Attack EPA's New CBI Claim To Force Release Of TSCA Studies

House Democrats are renewing their push to force EPA to release studies that form the basis of its draft assessment of a pigment chemical, its first such assessment of an existing chemical under the revised Toxic Substances Control Act (TSCA), saying new agency claims that the studies are confidential business information (CBI) are wrong.

#### **GREENWIRE ARTICLES**

# GSA planned to keep Trump Hotel site open a year, if needed

Jennifer Yachnin and Kevin Bogardus, E&E News reporters



The Old Post Office Tower at night. Wyn Van Devanter/Flickr

Published: Thursday, March 21, 2019

The General Services Administration inked a deal late last year to spend nearly \$600,000 to continue operations at the Old Post Office Tower inside the Trump International Hotel Washington, D.C. — enough to keep the site open for up to a year in the event of a continuous government shutdown — according to newly released documents.

The funding agreement between GSA and the National Park Service, which provides interpretive programming at the 270-foot observation tower, was included among 772 pages of **documents** released by NPS under the Freedom of Information Act.

The documents provide new details about the Trump administration's decision to reopen the NPS site inside the president's namesake hotel on Pennsylvania Avenue, even as his demands for billions of dollars to fund a border wall triggered a 35-day partial government shutdown that closed national parks and other public sites (*Greenwire*, Jan. 2).

Emails among NPS officials show discussion about whether the site — which is owned by GSA and operated by the Trump Organization under a 60-year lease that began in 2013 — would remain open ahead of the partial government shutdown that began in late December.

"We will tidy up our operational plan with the management team here. We need to look more closely at Old Post Office tower operations in particular," wrote Jennifer Madello, NPS's chief of administration for the National Mall and Memorial Parks, in a Dec. 17, 2018, **email** to acting Regional Director Lisa Mendelson.

Tim Moore, NPS's supervisory park ranger for the Pennsylvania Avenue National Historic Site, also asked about staffing for the site in a Dec. 16, 2018, **message**.

"I know this sounds like a broken record but I really need to know what the plan is for OPOT if there is a shutdown," Moore wrote. "Currently I'm the only staffer on the OPOT account, so if we are going to stay open there needs to be process approved and vetted by HR for who is declared essential to stay with me to keep the tower open."

An NPS spokesman did not immediately respond to requests for additional information for this article.

Another exchange released by NPS shows that unidentified "GSA management" sought to reopen the building as early as Dec. 27, 2018.

"I just spoke to GSA management and they asked if you were to be funded, how soon could you start services again at OPO?" wrote Darryl Speller, GSA's National Capital Region supervisory building manager, in an email.

Although the Old Post Office Tower did briefly close after the shutdown began Dec. 22, the site reopened in early January with an infusion of funds from GSA. The agency previously indicated the money was provided via its Federal Buildings Fund, the money generated from rent paid to GSA (*E&E News PM*, Jan. 11).

Contracts between GSA and NPS indicate the facility **cost** about \$48,000 per month to operate, and GSA approved two agreements that would have funded the site through April at a cost of more than \$288,000.

'Be extra careful'

Communications among NPS staff also show the agency's staff attempting to avoid getting "sucked into" questions about the site, given its ties to the president and his business.

After E&E News first reported GSA's decision to fund the Old Post Office Tower's operations during the government shutdown, NPS personnel received numerous emails from other news outlets. Many asked about the role of the Trump International Hotels in the decision.

"Seems to me this is GSA's to respond to, since it's their property and the decision to reopen it was theirs. I don't want to get sucked into a question about the political implications," **wrote** Mike Litterst, NPS's chief of communications for the National Mall and Memorial Parks.

A spokesman for Trump International Hotels did not respond to repeated inquiries about the Old Post Office Tower site for this story or previous stories.

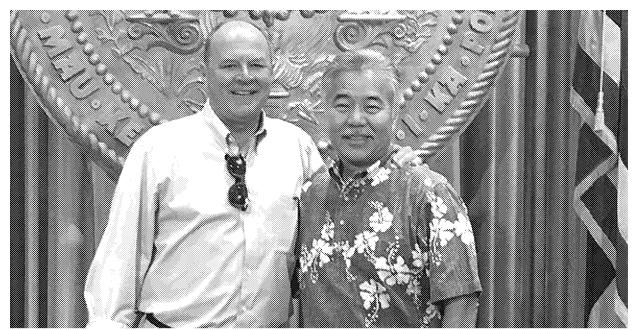
NPS officials also reminded staff at the site to avoid speaking with reporters after the Associated Press quoted a park ranger working at the Old Post Office Tower in early January.

"The ranger quoted in the story shared this with me and said the reporter didn't identify herself until they were finished chatting" Litterst wrote in a Jan. 5 **email**. "The quote is innocuous and isn't related to the shutdown, but we've reminded the staff to be extra careful about what they say when talking to visitors."

https://www.eenews.net/greenwire/2019/03/21/stories/1060127863

Region 9 chief worked little from main office - IG

Kevin Bogardus, E&E News reporter



Published: Thursday, March 21, 2019

EPA Region 9 Administrator Mike Stoker (left) visited with Hawaii Gov. David Ige (D) during a May 2018 visit to the state to discuss a multiagency response to the Kilauea Volcano eruption. @EPAregion9/Twitter

EPA Region 9 Administrator Mike Stoker has spent about 20 percent of his workdays in the San Francisco office where the bulk of his staff works.

The EPA inspector general issued a <u>management alert</u> today that reviewed the regional administrator's travel and where he reported to work for the agency. The Pacific Southwest branch oversees EPA operations in Arizona, California, Hawaii, Nevada and the Pacific islands.

EPA's internal watchdog detailed that Stoker is more often on official travel rather than working in Region 9's San Francisco office, where more than 90 percent of employees for the regional branch work. Between Stoker's start date in May last year up to the end of January, the Region 9 chief spent 30 out of 145 scheduled workdays in the San Francisco office.

He spent 72 days, or about half his work time, on official travel, according to the IG. Stoker took 35 trips that cost \$43,875 during that period. Fifteen of those trips were to Southern California.

In addition, Stoker spent 19 workdays in an EPA Region 9 field office in Los Angeles and teleworked for another 24 days.

The IG also found that EPA in early May 2018 considered creating a pilot program to have the Region 9 administrator's duty station be Los Angeles rather than San Francisco. The IG has since learned that Stoker's duty station has remained in San Francisco and he has been traveling at his own expense to his home near LA.

At least one top official in EPA Region 9 is not based in San Francisco. A new chief of staff has recently been appointed for Stoker whose duty station is the EPA finance center in Las Vegas, according to the IG.

Included in the IG report are comments from the EPA chief of staff, who said Stoker has been spending his time in LA and San Francisco as well as on travel.

"The agency's Chief of Staff stated that covering California alone is significant, citing numerous issues in the Los Angeles area involving the border, Native American populations, Superfund sites, ports, and other matters involving the second largest city in the country," said the report, which was signed by acting EPA IG Charles Sheehan and sent to EPA Administrator Andrew Wheeler.

"The agency's Chief of Staff stated that these are matters on which he would expect the Regional Administrator to spend a significant amount of his time," the report said.

Stoker's appointment in May as head of Region 9 attracted scrutiny after reports that he planned to work out of the LA office, which is closer to his Santa Barbara home. Sen. Dianne Feinstein (D-Calif.) sent a <u>letter</u> to EPA that month saying that she was "particularly troubled" by Stoker's reported plans and that the agency's mission would not be served "by having an absentee RA."

In an interview with E&E News at the time, Stoker dismissed those concerns. He said the San Francisco office would be his "duty station," but he would travel and work out of field offices such as the LA one (*Climatewire*, May 21, 2018).

"I look at my role as more of an ambassador," Stoker said, "making myself available to environmental, business, agriculture groups. Anytime there is a significant incident [I'm] involved with, I'd be on an airplane to be there."

Asked to comment on the IG report, Feinstein said in a statement that she had expressed "serious concerns" about Stoker's plans "to work primarily from the Los Angeles office instead of the Region 9 headquarters in San Francisco." She noted the IG's findings that Stoker only spent 30 workdays in San Francisco.

"This report confirms my initial concerns that he would be an absentee regional administrator. You cannot effectively lead a team if they never see you," Feinstein said.

The IG report, which was initiated on a hotline complaint, did not provide any recommendations. EPA is not required to provide a written response, according to the agency watchdog.

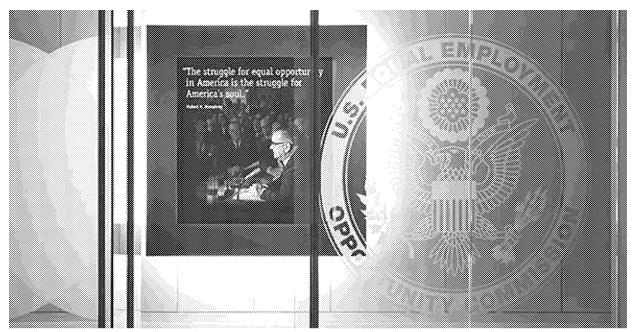
EPA press officials did not respond to questions from E&E News, including whether EPA intends to respond to the IG report.

An EPA Region 9 spokesman acknowledged a request to comment from E&E News but didn't respond further before deadline.

Meanwhile, Stoker continues his travels as Region 9 chief. He was spotted on social media yesterday in LA

https://www.eenews.net/greenwire/2019/03/21/stories/1060127871

**Budget would cut agency that reviews harassment complaints** Niina Heikkinen, E&E News reporter



Equal Employment Opportunity Commission headquarters in Washington. Perkins and Will Published: Thursday, March 21, 2019

The White House wants to slash funding for the agency charged with investigating cases of sexual harassment and other forms or workplace discrimination.

The president's budget proposal would reduce funding for the Equal Employment Opportunity Commission from \$379.5 million to \$355.8 million for fiscal 2020.

That would amount to a cut of 180 positions, including 50 investigators, as well as mediators, judges and intake representatives.

The \$23.7 million decrease would make it more difficult for the EEOC to handle an already extensive backlog of discrimination cases, according to the union representing the agency's workers.

The EEOC works to enforce federal laws barring discrimination against employees or job applicants based on a list of criteria, including race, religion and sex.

It offers guidance to and monitoring of federal agencies' compliance with regulations. Administrative law judges weigh discrimination complaints made by government employees.

The proposed cuts come as EEOC has worked to enhance its response to sexual harassment claims even before the advent of the #MeToo movement.

The agency saw a 13.6 percent increase in such claims in fiscal 2018 as its workforce fell below 2,000 for the first time in nearly 40 years, the EEOC's union stated.

"In a time of rising awareness of sexual harassment in the workplace, it sends the entirely wrong message to cut funding and staff at the agency that handles those complaints," said Gabrielle Martin, president of American Federation of Government Employees Council 216, the National Council of EEOC Locals, in a press release.

EEOC's acting Chairwoman Victoria Lipnic said that, in addition to the private case backlog, the agency faced an appeals backlog for federal worker cases. The agency is also behind on Freedom of Information Act requests.

In the budget justification, Lipnic noted the importance of the agency's outreach and education efforts as well as the Office of Legal Counsel and enforcement through the Office of General Counsel.

Still, the spending blueprint would trim funding for EEOC oversight of federal agencies, reducing money for hearings, appeals, mediation and oversight.

Martin warned against the effects of the cuts on discrimination complaints. "[F]ederal employees with discrimination complaints are affected by EEOC pressing a shrinking unit of administrative judges to hit unattainably high quotas by closing cases through summary judgement or without discovery," she said.

https://www.eenews.net/greenwire/2019/03/21/stories/1060127865

## Lawmakers renew calls for EPA risk evaluation transparency

<u>Courtney Columbus</u> and <u>Corbin Hiar</u>, E&E News reporters Published: Thursday, March 21, 2019

Reps. Frank Pallone (D-N.J.) and Paul Tonko (D-N.Y.) are once again calling for EPA to release the health and safety studies it used in the risk evaluation of pigment violet 29.

EPA in November published its <u>draft risk evaluation</u>, which concluded that PV29 "does not present an unreasonable risk of injury to human health or the environment." But the evaluation said the studies were not publicly available because they were "confidential business information."

However, Pallone and Tonko say the Toxic Substances Control Act "does not allow health and safety studies submitted under the Act or used by the EPA under the Act to be protected as Confidential Business Information (CBI). EPA's decision to label those health and safety studies as CBI was contrary to the statute and has impaired transparency."



Pigment violet 29. Environmental Defense Fund

The letter to EPA Administrator Andrew Wheeler added, "Although we received a response from you on February 15 acknowledging that the studies were not eligible for protection under TSCA, EPA did not provide the requested studies. We are, therefore, forced to renew that request."

Pallone is chairman of the House Energy and Commerce Committee, and Tonko heads the Environment and Climate Change Subcommittee. The duo had asked EPA in January to release the studies used in the evaluation (*Greenwire*, Jan. 31).

In February, EPA responded to the lawmakers' request but did not provide the studies.

EPA "is currently undergoing the process to make a determination on whether the studies are entitled to confidential treatment," Associate Administrator Troy Lyons wrote.

"Upon completion of the CBI substantiation process, the Agency may be able to release additional information and studies. The Agency is committed to transparency and the public review and comment process while, at the same time, ensuring adequate protection for properly substantiated CBI."

The PV29 review has been scrutinized by Congress, industry and public health advocates both because it's the first draft evaluation EPA has completed since the passage of TSCA reform and because of the safety record of Sun Chemical Corp., the only U.S. manufacturer of PV29.

In 2015, the New Jersey-based pigment company produced about 650,000 pounds of the chemical, according to EPA data cited in the evaluation.

Earlier this year, David Michaels, a professor at the George Washington University School of Public Health, <u>criticized</u> EPA's draft PV29 review, saying it was "filled with unsupported or incorrect assumptions and conclusions regarding worker exposures and associated protective measures."

Michaels, who was the Obama-era head of the Occupational Safety and Health Administration, also noted that two Sun Chemical workers have died on the job since November 2011.

Sun Chemical and EPA did not immediately respond to requests for comment.

https://www.eenews.net/eenewspm/2019/03/21/stories/1060127889

## **CHEMICAL WATCH ARTICLES**

REACH authorisation decisions on chromates adopted by Commission

Companies permitted specific uses of sodium chromate, chromium trioxide

20 March 2019 / Alternatives assessment & substitution, Europe, REACH, SVHCs



The European Commission has adopted decisions granting applications for authorised uses of chromates.

Member states approved applications from two companies for conditional uses of the SVHCs under REACH Annex XIV – the authorisation list, at their REACH committee meeting on 17-18 December.

Italian company Saes Getters is permitted two uses of sodium chromate and one use of potassium chromate in:

- > the formulation of a mixture and filling of that into alkali metal dispensers for the production of photocathodes; and
- alkali metal dispensers for the same.

The recommended review period is 6 March 2026.

Both chemicals were added to the candidate list in 2010 for their carcinogenic and mutagenic properties, with sodium chromate also being listed as a reprotoxin.

#### Chromium trioxide

The Commission has also adopted a decision permitting Germany's Federal-Mogul Burscheid a specific use of chromium trioxide.

The company can now use the chemical in functional chrome plating of piston rings for automotive engines as applied in the segments light vehicle petrol, light vehicle diesel, middle range diesel and heavy duty.

The recommended review period is 21 September 2029.

Chromium trioxide was also added to the candidate list in 2010 because of its carcinogenic and mutagenic properties.

To date only one authorisation application has been <u>rejected</u>. And earlier this month, in another first, the EU General Court ruled that a European Commission decision to allow a company to sell pigments for paints containing lead chromates in the EU was illegal.



<u>Luke Buxton</u> Europe editor

## **Related Articles**

- REACH authorisation application rejected in EU first
- EU court rules Commission authorisation of lead chromates was illegal
- Further Information:
- Saes Getters decision
- · Federal-Mogul Burscheid decision
- Echa authorisation page

# **Danish Coop bans cosmetics containing PFAS chemicals**

## Applies to all brands, not just those retailer-owned

20 March 2019 / Denmark, PFCs, Voluntary action



Danish retailer Coop will stop selling cosmetics products containing perfluoroalkyl and polyfluoroalkyl substances (PFASs).

The ban will apply to all brands, not just those that the retailer owns. Coop has informed its suppliers that it will stop selling the products immediately.

This, it says, is to ensure that all PFAS-containing cosmetics products are completely phased out "as soon as possible" but by 1 September at the latest.

Coop quality manager Malene Teller Blume says these products come directly into contact with the skin, so "PFAS substances should not be used in everyday products" when it is "fully possible to produce good products without them".

Coop says that there is "no acute danger of using a cosmetic product with PFAS". However, the company has banned the substances because they contribute to the so-called cocktail effect. This is the name given to a combined effect of exposure to many substances.

Even if the substances, individually, do not pose a risk, comply with legislation and occur in very low concentrations, "studies show that the combination of the various substances can be endocrine disrupting or otherwise harmful to health," the company says.

In 2016, Coop announced that it would phase out 12 substances or broad groups of chemicals, ranging from all SVHCs to fluorinated compounds, from its private label products. So far, it has banned ten of the 12 from its own brands and removed all 12 substance groups from own-brand product lines, Änglamark, facts 365, Irma ecology and Irma Tusindfryd.

Other retailers have also taken action, such as European home improvement company Kingfisher and major American grocery retailers Whole Foods Market and Trader Joe's.

## **Focus on PFAS**

PFAS chemicals have come under scrutiny in recent years, with long-chain (C8) substances, such as PFOA and PFOS, receiving global attention due to their persistence and ecological toxicity.

Global action, under the UN's Stockholm Convention on persistent organic pollutants (POPs), has been taken on PFOS, and is under consideration for PFOA.

In December last year, the European Food Safety Authority (Efsa) proposed lowering tolerable intakes of PFOS and PFOA in foods, after examining human epidemiological evidence.

In November last year, the Danish EPA found high levels of PFASs in almost one third of 17 analysed cosmetics products.

And most recently, the US EPA has set out a number of actions to address concerns associated with the chemicals.

In 2015, a group of scientists released The Madrid Scientific Consensus Statement on PFASs, which asserts that it is essential "to take measures at the international level to reduce the use of PFASs in products and prevent their replacement with fluorinated alternatives in order to avoid long-term harm to human health and the environment."

Coop quality manager Malene Teller Blume will be speaking at Chemical Watch's Global Business Summitnext week in Brussels.



**Leigh Stringer**Global Business Editor

### **Related Articles**

- Danish Coop to phase out 'dirty dozen'
- Kingfisher to phase three chemical families out of own brand products
- Two US grocery chains pledge action on PFAS takeout packaging
- Efsa panel lowers tolerable intakes for PFOS and PFOA
- Danish study finds high levels of PFASs in cosmetics
- US EPA announces PFAS action plan

## Further Information:

- Coop statement
- PFAS substances banned by Coop
- Madrid Scientific Consensus Statement

#### **US EPA round-up**

21 March 2019 / TSCA, United States

### TSCA "not likely" findings

The US EPA has issued eight TSCA 5(a)(3)(c) findings for substances subject to pre-manufacture notices (PMNs). These "not likely to present an unreasonable risk" determinations will allow the substances to come to market without restriction.

They cover:

- > P-18-0077: urea, reaction products with N-butyl phosphorothioic triamide and formaldehyde, intended for use as a fertiliser additive:
- ➤ P-17-0387 and P-17-0388: confidential polymers imported for use as paint;
- ▶ P-19-0007: a polymer imported for use as a coating resin binder applied to metal substrates;
- P-18-0277: a confidential substance, generically described as poly[2-(dimethylamino)ethyl acrylate chloride salt, vinyl acetate, methacrylic acid and alkyl acrylates], manufactured for use as an adhesive;
- > P-18-0379: a cashew nutshell liquid polymer imported for use as a hardener for waterborne epoxy system;
- > P-18-0107: an alcohol capped polycarbodiimide imported as a part of polyester plastic for use as a hydrolysis stabiliser;
- > P-18-0118 and P-18-0119: two confidential polymers manufactured and/or imported for use as industrial adhesives; and
- ➤ P-18-0132: a confidential substance imported for use as a pigment dispersing aid.

# **PMN receipts for September 2018**

The US EPA received 92 pre-manufacture notices (PMNs) in September 2018 and 71 amendments to past PMNs, according to a 21 March *Federal Register* notice. The manufacturer's identity was withheld as confidential business information (CBI) on 106 of the 163.

This reflects a significant <u>surge</u> in notifications ahead of a 1 October 2018 jump in TSCA <u>fees</u> for PMN submissions and other programme activities.

The agency also notified that in September it received:

- five significant new use notices (Snuns) and five amended Snuns;
- test data in support of six previously submitted PMNs;
- > 13 notices of commencement (NOCs) and three amended NOCs; and
- > one amendment to a test marketing exemption (TME).

Section 5 of TSCA requires notification when any person intends to manufacture or import a chemical substance for a non-exempt commercial purpose, either for the first time (PMN) or for a 'significant new use', for substances subject to a significant new use rule (Snur). Submitters must provide the EPA with the appropriate information before initiating the activity; the agency reviews those notices, evaluates risk and takes appropriate action.

Under 2016 updates to TSCA, the EPA must publish a list of these submissions monthly.

#### Access to TSCA CBI

The EPA has authorised the following contractors and subcontractors to access information submitted under TSCA sections 4, 5, 8 and 21, including some information that has been claimed as CBI:

- Syracuse Research Corporation (SRC) of East Syracuse, New York;
- BeakerTree Corporation of Arlington, Virginia;
- Eastern Research Group (ERG) of Chantilly, Virginia;
- Essential Software Inc. of Potomac, Maryland; and
- Versar Inc of Springfield, Virginia.

The companies will be given access to the data until 19 December 2023 in order to assist the Office of Pollution Prevention and Toxics (OPPT). These tasks include:

- > providing support in scientific health and environmental assessments;
- risk management evaluations;
- maintenance and enhancement of scientific tools and models; and
- document processing for new and existing chemicals and products of biotechnology and nanotechnology under TSCA.

## Healthy schools grant programme

The EPA is proposing a \$50m grant programme with the goal of identifying and addressing environmental health risks in schools.

The Healthy Schools Grant programme is intended to assist schools in identifying, reducing and resolving environmental hazards. These include childhood exposure to toxic chemicals and lead and asthma triggers.

Eligible recipients would include state and local governments and non-profit organisations.

#### **Related Articles**

- TSCA new substance backlog tops 550 cases
- Higher TSCA fees loom for new chemical submissions
- Further Information:
- TSCA new substance determinations
- PMN receipts
- Access to TSCA CBI
- Grant programme

### **US Congress round-up**

21 March 2019 / PFCs, United States

In view of Congress' increased interest in, and oversight of, the EPA and other toxics-related topics, this is the first of what will be a semi-regular **US Congress round-up** of news articles, similar to those we already publish about the EPA and Echa

## Senator presses EPA on PFAS groundwater contamination level

Senator Tom Carper (D-Delaware), top Democrat on the Environment and Public Works Committee (EPW), has sent a letter to EPA Administrator Andrew Wheeler urging him to resist alleged outside efforts to establish weakened perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA) groundwater cleanup limits.

According to an investigation by the *New York Times*, the Department of Defense (DOD), National Aeronautic and Space Administration (Nasa) and Small Business Administration (SBA) are pressing for a cleanup standard of 400ppt; the EPA's current health advisory level is 70 parts per trillion (ppt).

The DOD allegedly has a stake in the issue due to cases of PFAS-containing fire fighting foams <u>contaminating</u> waterways. And Mr Carper expressed concerns that <u>a delay</u> in finalising the EPA's PFAS cleanup <u>guidelines</u> are due to these interagency conflicts.

Adopting the DOD's recommended level would "among other consequences, subject fewer sites that were contaminated through the military's use of PFOA/PFOS from having to be remediated in the first place," he said.

He noted, however, that the EPA has "reportedly resisted these weakening measures".

# House science committee hearing on IRIS

The House of Representatives Committee on Science, Space and Technology will host a hearing reviewing "progress and roadblocks" of the EPA's Integrated Risk Information System (IRIS) programme.

It will take place at 10am EDT on 27 March, in Washington, DC.

## Senate EPW hearing on PFAS response

The Senate Committee on Environment and Public Works (EPW) will hold a hearing entitled 'Examining the federal response to the risks associated with per- and polyfluoroalkyl substances (PFAS)'.

It will take place at 10am EDT on 28 March, in Washington, DC.

#### **Related Articles**

- NGO researchers call to ban PFASs from firefighting foam
- EPA accused of dragging its feet with federal PFAS management plan
- US EPA announces PFAS action plan
- Further Information:
- Carper statement
- House hearing on IRIS
- Senate hearing on PFAS

## Minnesota legislators consider trichloroethylene ban

22 March 2019 / Halocarbons, PFCs, Solvents, US states

Bills have been introduced in both chambers of the Minnesota legislature to ban the solvent trichloroethylene (TCE) in products and manufacturing processes.

The legislation (HF 2276 / SF 2075) would prohibit from 1 January 2020 the manufacture, process or distribution in commerce of any product containing the substance.

The legislation also looks to block TCE's use as:

- a vapour degreaser;
- a refrigerant;
- an extraction solvent;
- > an intermediate to produce another substance; or
- > any other manufacturing or cleaning process or use.

Consideration of the legislation comes as an EPA proposal to prohibit the solvent's use in <u>vapour degreasing</u> and as an <u>aerosol degreaser</u> and spot cleaner in dry cleaning appear to have been <u>abandoned</u>. Those and other uses of the substance are instead <u>being assessed</u> under an ongoing TSCA risk evaluation, which – along with nine other <u>initial</u> <u>assessments</u> under the reformed law – are due to be finalised by December.

If that assessment determines the substance poses unreasonable risk, the EPA is required to impose risk management provisions to address those concerns.

The TCE measures are among several bills focused on chemicals in products being heard in the Minnesota legislature this session. Others include:

- bills (HF 2595 / SF 2088) banning the manufacture, sale or distribution of food packaging containing intentionally added per- and polyfluoroalkyl substances (PFASs);
- legislation (HF 359 / SF 321) to ban certain flame retardants in upholstered furniture and children's products; and
- > companion bills (HF 1898 / SF 1920) aimed at increasing public awareness on the dangers associated with illegal skin lightening creams that contain mercury.

## **Related Articles**

- US EPA moves to ban additional use of TCE
- US EPA proposes first substance ban in 27 years
- Restrictions on methylene chloride, NMP, TCE apparently shelved by US EPA
- US 'problem formulations' raise fears for TCE, NMP rules
- EPA names first ten chemicals for new TSCA evaluations
- Further Information:
- HF 2276
- SF 2075

Cefic calls for end to multiple RMOAs for same substance

'Confusing' situation means different member states can propose different measures, says Sylvie Lemoine

21 March 2019 / Europe, Risk assessment, Substances of concern



The EU should work towards a common agreement on the risk management option analysis (RMOA) process so as to prevent cases where one substance is subject to different conclusions from official bodies.

Sylvie Lemoine, Cefic's new product stewardship director, made the case at Chemical Watch's authorisation conference in Brussels this week.

An RMOA is a case-by-case analysis conducted by authorities (member states or Echa if requested by the European Commission) to conclude if a substance should be identified as a concern and if additional regulatory instruments should be proposed.

She gave the example of the siloxanes D4, D5 and D6. An RMOA proposing a restriction on D4 and D5 in rinse-off cosmetics was put forward by the UK in 2015 and adopted in 2016 with an agreement to review it five years later.

In the meantime the European Commission initiated a new restriction for other uses beyond the original RMOA recommendation. And in 2017 Germany proposed the addition of D4 and D5 to the candidate list and created an SVHC identification dossier a year later.

It can be "very confusing" for industry when this happens, she said. "When you have an agreement on one RMOA that becomes your reference. Then out of the blue a new initiative comes either from a member state or the Commission. It's all about predictability and transparency."

Other examples include resorcinol and NMP (and other aprotic solvents).

A common agreement, she said, could be made by member states within Echa's Risk Management Expert platform (RiME+) on when an RMOA is final.

"The effectiveness of the chosen risk management measure should be assessed before a new one is proposed via a new RMOA, unless there is new information about a risk," she told Chemical Watch.

#### **SVHC** identification

Another issue, said Dr Lemoine, is ensuring there is common understanding of the purpose of SVHC identification. Some member states recommend SVHC identification alone – without authorisation – as an RMM in itself. This is because it allows formal identification of persistent bioaccumative and toxic (PBT) chemicals and endocrine disruptors (not covered by classification and labelling) and triggers communication in the supply chain and a notification in articles.

But Echa sometimes separately identifies substances as potential SVHCs regardless of an earlier member state RMOA. This means that at some point there will be an assessment for authorisation for that substance, Dr Lemoine added.

"That does not seem consistent with what was initially proposed by the member state as a risk management measure. I'm not saying one is right and the other is wrong. What I'm saying is we need clarity in the process of RMOA on SVHCs and the link with other regulatory processes – restriction, authorisation and occupational exposure limit (OELs)."

### Use specific

Additionally, member states, Echa and the Commission need to further consider uses and exposure to see if they are relevant, for example, only to workplace exposure, and if there are there measures already in place under OSH legislation or REACH.

Dr Lemoine also questioned whether SVHC identification of substances used as intermediates and monomers makes sense as they are not be subject to authorisation.

Process chemicals are used in a controlled industrial setting so there is no risk of wide dispersive use. "Would SVHC identification followed by authorisation for process chemicals therefore be relevant? What type of risk are you trying to control?"

There should also be greater focus on the specifics of the use, especially if many SMEs use the substance in a particular area, she added. "We've heard about the complex authorisation application process for chromates – in specific cases they are almost impossible to manage."

It is a matter of proportionality and thinking about the market structure, she added.

"We all want to avoid regrettable substitution, but we also want to avoid regrettable policy and regrettable decision-making. It is complex, but the more time we invest at the beginning the more sustainable the solution we have at the end."



Luke Buxton
Europe editor

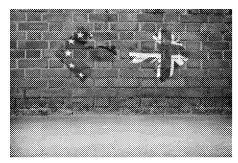
### **Further Information:**

Chemical Watch authorisation conference

Chemical associations back 'fatal' Lords motion opposing UK REACH instrument

**CBA** and Bacs support Lord Fox objection

21 March 2019 / Brexit, Data, REACH, Substance registration, UK



The British Association for Chemical Specialities (Bacs) and the Chemicals Business Association (CBA) have backed a motion by a member of the House of Lords objecting to the UK government's draft REACH statutory instrument (SI).

In March, Liberal Democrat peer Lord Fox put forward the motion on the grounds that the government has provided insufficient information on the impact of the proposed changes.

Should the Lords decline to approve the SI, which passed through the House of Commons in February, this would effectively mean the instrument must be withdrawn. The government would be left with no time to return with a revised draft, should the UK leave the EU on 29 March without a deal.

In this scenario, the UK would have no relevant chemicals REACH regulation in place as the current administration of EU REACH would not be applicable in a national context.

The House of Lords is due to debate the motion on 26 March.

#### 'No alternative'

"We are left with no alternative but to support Lord Fox's 'fatal' motion," Bacs Chair John Hibbs told Chemical Watch.

CBA chief executive Peter Newport said the association continues to support the prime minister's intention to align the UK with EU REACH and maintain access to Echa as this enables EU market access. "But," he added, "in the event of a hard Brexit, CBA has reluctantly concluded that no UK SI would be better than the bad SI currently tabled."

'We are left with no alternative but to support Lord Fox's 'fatal' motion,' John Hibbs, chair of Bacs

Bacs and the CBA have both had extensive discussions on the UK REACH proposals with the Department for the Environment, Food and Rural Affairs' (Defra) and Department for Business, Energy and Industrial Strategy (Beis).

In spite of this, they say that Defra has not taken into account warnings about the potential effects on the UK chemical industry.

## These include:

- > an excessive duplicated cost for UK chemical manufacturers and importers, for no additional benefit to human health or the environment;
- > manufacturers potentially being forced by Defra to conduct repeat animal tests; and
- > a two-year deadline for submission of a full data package, which is too short.

Implementing the SI in its current form will have a "disastrous impact on the competitiveness and even viability of many UK chemical businesses, especially in the SME sector," Mr Hibbs said.

The red line for both associations has been a refusal to accept any reduction in protections for human health and the environment offered under current EU law. "While that holds as strong today, we would not be representing our members' — or indeed the UK's — best interests by accepting the SI in its current form, hence our support for Lord Fox," Mr Hibbs said.

'Implementing the SI in its current form will have a "disastrous impact on the competitiveness and even viability of many UK chemical businesses, especially in the SME sector", 'Mr Hibbs said

The idea that causing the withdrawal of the current SI would result in some kind of "chemical anarchy" is inconsistent with how chemical regulations actually work, he added.

REACH is one of a suite of chemical regulations – including the prior informed consent (Pic) Regulation and the detergents and cosmetics Regulation, "so the current level of information and control for the user would be unchanged", he said.

The "great majority" of UK producers, will still be complying with EU REACH in order to maintain their export business, Mr Hibbs added.

"Any suggestion that industry would use the temporary absence of UK REACH to indulge in a frenzy of unregulated chemicals and animal testing is frankly ridiculous."

Earlier this month, another Lord – Labour peer Lord Whitty – tabled a 'motion to regret', which reflects concerns raised by industry. A motion to regret, if agreed by the House, cannot stop or amend the SI, but gives members an opportunity to put on record their dissent.

On 14 March MPs voted to approve an extension to Article 50 – expected up to 30 June – and today UK prime minister Theresa May is meeting with EU heads of state who will discuss their position on the UK's request.

They will only formally grant an extension, when and if the House of Commons supports Ms May's deal.



**Luke Buxton** Europe editor

### **Related Articles**

- Lord tables motion opposing UK draft REACH statutory instrument
- UK REACH database still up in air, government admits
- · CBA survey 'confirms' UK REACH data fears

- Industry calls for 'meaningful' delay as Brexit paralysis intensifies
- Further Information:
- Lord Fox motion
- · Lord Whitty motion

# Commission requests Echa OEL recommendations for lead, diisocyanates

21 March 2019 / Carcinogens & mutagens Directive, Chemical agents Directive, CMRs, Europe, Occupational hygiene



The European Commission has asked Echa to make recommendations on occupational exposure limits (OELs) for lead and its compounds and diisocyanates.

These are the first OEL recommendations Echa has been tasked with since it <u>took over</u> the responsibilities of DG Employment's Scientific Committee on Occupational Exposure Limits (Scoel), earlier this year.

A dedicated Echa working group will now review available data and prepare proposals for OELs under the carcinogens and mutagens Directive (CMD) and the chemical agents Directive.

The proposals will then be sent to the agency's Risk Assessment Committee (Rac). At this point, stakeholders will have a chance to get involved through a public consultation.

Echa expects that Rac will be able to deliver its scientific Opinion on a proposal within 12 months. After that the agency will prepare a recommendation and send it to the Commission for decision making.

However, the legal deadline for adopting the final Opinions on lead and its compounds and diisocyanates is 15 September 2020. Echa also needs to submit two interim reports to the Commission within the next nine months.

Meanwhile, Echa has added an OEL activity list to its website. It gives an overview of planned, ongoing and completed activities, including calls for evidence, public consultations and the adoption of final opinions by Rac.

The agency will recommend OELs for four to five substances a year, from 2020 onwards.

### **Related Articles**

- Echa commits to regular work on occupational exposure limits
- Further Information:

## Echa OEL activity list

## Echa round-up

21 March 2019 / Alternatives assessment & substitution, Brexit, Europe, Microplastics

### Reminder for UK withdrawal preparations

Echa has issued a further reminder to companies about preparations for the UK's withdrawal from the EU without a transition period.

The advice and practical instructions it has already published remain valid in the current situation; for example on transferring REACH registrations from a UK-based registrant to one based in an EU27 member state.

But the agency points out that while UK companies can initiate a REACH asset transfer in its IT tools at any time before the withdrawal date, the successor company in the EU27 should only accept it after this.

Echa has produced a step-by-step guide on how to transfer UK registrations prior to withdrawal.

## Restriction proposals consultations on microplastics, formaldehyde and D4, D5 and D6

Echa has submitted proposals to restrict:

- > microplastics. Scope: restricting the use of intentionally added microplastic particles in consumer or professional use products of any kind;
- > formaldehyde and formaldehyde releasers. Scope: restricting release from consumer articles; and
- octamethylcyclotetrasiloxane (D4); decamethylcyclopentasiloxane (D5); dodecamethylcyclohexasiloxane (D6). Scope: leave-on personal care products and other consumer/professional products (e.g. dry cleaning, waxes and polishes, washing and cleaning products) containing D4/D5/D6 in concentrations exceeding 0.1% shall not be placed on the market. This includes wash-off and rinse-off cosmetic products containing D6 in concentrations > 0.1%.

While the deadline for comments is 20 September, the agency is encouraging early comments by 20 May to help with first discussions on the proposals.

## Conformity agreed

1

The consultations follow a recent agreement from the agency's Committees for Risk Assessment and Socio-economic Analysis' (Rac and Seac) that the proposals are all in conformity with the requirements of Annex XV of REACH.

All restriction proposals are checked for this prior to the committees starting their evaluation and developing opinions.

#### Four new CLH consultations started

Echa has started four new public consultations into the classification, labelling and harmonisation of substances.

#### These are:

- corrosive substance beta-cyfluthrin;
- corrosive substance cyfluthrin;
- reproductively toxic and aquatically hazardous substance imazamox; and
- explosive and flammable substance pyridalyl.

The consultations will run until 17 May. Comments can be submitted via the agency's website.

# New substance evaluation conclusion published

The agency has published a new conclusion document for this substance:

phenol, paraalkylation products with C10-15 branched olefins (C12 rich) derived from propene oligomerization, carbonates, calcium salts, overbased, sulfurized including distillates (petroleum), hydrotreated, solvent-refined, solvent dewaxed, or catalytic dewaxed, light or heavy paraffinic C15-C50.

The substance was added to the Community Rolling Actin Plan (Corap) list in 2013 and evaluated by the Netherlands. It concluded that further evaluation of risk management measures under REACH is appropriate.

## **Board of Appeal recruitment**

Echa has provided information for candidates interested in applying for the forthcoming vacancies for technically qualified alternate/additional members in the agency's Board of Appeal.

The body is responsible for deciding on appeals against certain individual decisions of the agency.

Candidates must be EU or European Economic Area nationals and able to serve a minimum five-year term.

Among selection criteria, they must also have:

- a minimum of 12 years' professional experience in scientific or technical fields relevant to REACH; and
- > a thorough knowledge of one of the EU's official languages.

The closing date for applications is 26 April.

Mercedes Ortuño, who led the BoA and its work for ten years, will leave her post in April. She spoke to Chemical Watch about her work and legacy in February.

### **Related Articles**

- Guest Column: Mercedes Ortuño reflects on a decade as Echa BoA chair
- Further Information:
- Step-by step guide on transfer of UK registrations
- Brexit advice to companies
- Restrictions under consideration
- CLH consultations
- Corap list
- Board of Appeal candidate information

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### **OTHER ARTICLES**

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Chemical analysis supports EU's toxic tattoo ink ban

**Chemistry World** 

An analysis of tattoo and permanent makeup inks has found aromatic hydrocarbons, amines and heavy metals – all potentially hazardous **compounds** ...

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